



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 25, 1996

Ms. Y. Qiyamah Taylor
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR96-1761

Dear Ms. Taylor:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 34872.

The City of Houston (the "city") received a request for "an internal report contained in the Houston Police Department's files regarding the investigation of an accident between a patrol car" and another vehicle. You state that a claim has been filed with the city and the claimant is being represented by counsel. You assert that the city has reason to believe that this incident will result in litigation. You contend that the requested information is excepted from required public disclosure under section 552.103 of the Government Code. You also contend that the documents are excepted from disclosure under section 143.089 of the Local Government Code in conjunction with section 552.101 of the Government Code, because they are maintained in the Houston Police Department's internal file and are not a part of a police officer's civil service personnel file.

We note initially that the information submitted to this office includes first page offense report information, which is generally considered to be public and, as such, must be released. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975) *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). We have enclosed a summary of the type of information that is generally considered to be public as a guide. Also, an accident report was submitted to this office, which we assume has already been provided to the requestor. We will address the other information submitted.

conjunction with section 552.101 of the Government Code, we need not address your 552.103 argument.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/SAB/ch

Ref.: ID# 34872

Enclosures: Submitted documents
Summary of Open Records Decision No. 127

cc: Mr. Larry D. Hatley
Hatley and Associates
Attorneys and Counselors at Law
6524 San Felipe, #105
Houston, Texas 77057
(w/o Submitted documents)

Section 143.089 of the Local Government Code works in conjunction with section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information deemed confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 143.089 of the Local Government Code contemplates two different types of personnel files, one that the police department is required to maintain as part of the police officer's civil service file, and one that the police department may maintain for its own internal use. Local Gov't Code § 143.089(a), (g). You represent that the documents submitted to this office for review are part of the police department's internal personnel files rather than the civil service files. Therefore, we are considering only those files which may be maintained by the police department for its own internal use under section 143.089(g).

Section 143.089(g) provides:

A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

In *City of San Antonio v. Texas Attorney Gen.*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied), the court addressed a request for information contained in an internal file maintained by the city police department for its own use and addressed the applicability of section 143.089(g) to that file. The records included in the personnel file related to complaints against the police officer for which no disciplinary action was taken. The court determined that section 143.089(g) made these records confidential. *City of San Antonio*, 851 S.W.2d at 949. In cases in which a police department takes disciplinary action against a police officer, section 143.089(a)(2) requires that records relating to the investigation and disciplinary action be placed in the civil service files maintained under section 143.089(a). Civil service records are generally public unless otherwise excepted from disclosure. Local Gov't Code § 143.089(f); Open Records Decision No. 562 (1990) at 6.

It does not appear from the information submitted that the police department's internal investigation resulted in disciplinary action. Investigation files maintained by the police department that did not result in disciplinary action and which are part of the section 143.089(g) internal file must be withheld from required public disclosure.¹ Because you must withhold these documents under 143.189(g) of the Local Government Code, in

¹ We also note that section 143.089(g) requires a police department that receives a request for information maintained in a file under section 143.089(g) to refer the requestor to the civil service director or the director's designee.